

SIXTY-SECOND DAY.

Senate Chamber,
Austin, Texas,
April 24, 1933.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent.

Purl.

Absent—Excused.

Beck.	Martin.
Cousins.	Oneal.
Fellbaum.	Sanderford.
Greer.	Small.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By unanimous consent, the rule relating to the introduction of general bills after the first 52 days of the session was suspended and consent was granted to take up and consider the following bill:

By Senator Holbrook:

S. B. No. 529, A bill to be entitled "An Act amending Section 1 of Chapter 114 of the Local and Special Laws of the State of Texas passed by the Thirty-ninth Legislature at its Regular Session, and providing for the validating of assessments of taxes heretofore levied and assessed on territory within the boundaries of the Markham Independent School

District in Matagorda County, Texas, as set out in the original bill and declaring an emergency."

Read and referred to Committee on Educational Affairs.

Senator Pace asked unanimous consent to introduce a bill exempting Y. M. C. A.'s and Y. W. C. A.'s from taxation.

Objection was heard.

Senator Pace moved to suspend the rule relating to introduction of bills after the first 52 days in order to introduce the bill.

The motion was lost by the following vote:

Yeas—18.

Blackert.	Pace.
Collie.	Patton.
Duggan.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodul.
Neal.	Woodward.

Nays—3.

DeBerry.	Woodruff.
Poage.	

Absent.

Parr.	Purl.
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Absent—Excused.

Beck.	Martin.
Cousins.	Oneal.
Fellbaum.	Sanderford.
Greer.	Small.

(25 affirmative votes required.)

By unanimous consent, the rule relating to the introduction of bills after the first 52 days of the session was suspended and consent was granted to introduce the following bill:

By Senator Hornsby:

S. B. No. 530, A bill to be entitled "An Act exempting all male persons not otherwise exempt between the ages of eighteen and forty-five years residing in Burnet County from the performance of road duty, and declaring an emergency."

Read and referred to Committee on Civil Jurisprudence.

Senators Excused.

On motion of Senator Redditt, Senator Beck was excused for the day on account of illness.

On motion of Senator Hopkins, Senator Sanderford was excused for the day on account of illness in his family.

The following Senators were excused for the day on account of important business:

Senator Cousins, on motion of Senator Redditt.

Senator Small, on motion of Senator Woodward.

Senator Martin, on motion of Senator Blackert.

Senate Bill No. 529.

The Chair laid before the Senate by unanimous consent the following bill:

By Senator Holbrook:

S. B. No. 529, A bill to be entitled "An Act amending Section 1 of Chapter 114 of the Local and Special Laws of the State of Texas, passed by the Thirty-ninth Legislature at its Regular Session, and providing for the validating of assessments of taxes heretofore levied and assessed on territory within the boundaries of the Markham Independent School District in Matagorda County, Texas, as set out in the original bill and declaring an emergency."

The rule requiring committee reports to lie over one day was suspended by unanimous consent.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

On motion of Senator Holbrook, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 529 was put on its second reading by the following vote:

Yeas—22.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Oneal.
Cousins.	Purl.
Fellbaum.	Sanderford.
Greer.	Small.
Martin.	

The bill was read second time and passed to engrossment.

On motion of Senator Holbrook, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 529 was put on its third reading and final passage by the following vote:

Yeas—22.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Oneal.
Cousins.	Purl.
Fellbaum.	Sanderford.
Greer.	Small.
Martin.	

Read third time and finally passed by the following vote:

Yeas—22.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Oneal.
Cousins.	Purl.
Fellbaum.	Sanderford.
Greer.	Small.
Martin.	

Bills Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of sign-

ing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

H. B. No. 709.	S. B. No. 484.
H. B. No. 663.	S. B. No. 294.
H. B. No. 275.	S. B. No. 133.
H. B. No. 815.	S. B. No. 139.
S. B. No. 314.	H. B. No. 878.

Message From the Governor.

Executive Department,
Austin, Texas, April 24, 1933.

To the Texas State Senate:

I ask the advice and consent of the Senate to the following appointments for the ensuing statutory term:

To be a Member, Board of Regents, Texas Technological College:

Honorable Joe T. Sneed, Jr., Amarillo, Potter County, Texas.

To be Presiding Judge of the Fourth Administrative Judicial District of Texas:

Honorable J. P. Pool, Victoria, Victoria County, Texas.

To be Presiding Judge of the Fifth Administrative Judicial District of Texas:

Honorable A. M. Kent, Brownsville, Cameron County, Texas.

To be Presiding Judge of the Sixth Administrative Judicial District of Texas:

Honorable Ballard Coldwell, El Paso, El Paso County, Texas.

To be Presiding Judge of the Ninth Administrative Judicial District of Texas:

Honorable Reese Tatum, Dalhart, Dallam County, Texas.

To be Members of the State Board of Veterinary Medical Examiners:

Dr. W. R. Sanderson, Brownwood, Brown County, Texas.

Dr. W. T. Hufnall, Houston, Harris County, Texas.

Dr. C. Rager, San Antonio, Bexar County, Texas.

Dr. Ben Green, Cumby, Hopkins County, Texas.

Dr. Sam G. Bittick, Fort Worth, Tarrant County, Texas.

Dr. L. L. Minke, Hempstead, Waller County, Texas.

Dr. W. L. Northcutt, Breckenridge, Stephens County, Texas.

Respectfully,

MIRIAM A. FERGUSON,
Governor of Texas.

Read and referred to Committee on Governor's Nominations.

S. J. R. No. 3.

The Chair laid before the Senate on its third reading the following resolution:

By Senator Rawlings:

S. J. R. No. 3, Proposing an amendment to the Constitution of the State of Texas by adding to Article IX thereof a new section to be numbered 3, so as to authorize any county to adopt a Home Rule Charter for the establishment and regulation of its government, which may provide that the commissioners court of such counties may serve as the governing body, or that some other body shall act in lieu thereof, and said charters may also provide that the county judge, justice of the peace, district and county attorneys and other officers in said counties may be compensated by salary instead of fees of office, and that any county office may be abolished, consolidated or created by the governing body of said county, and said charters may provide for taxation within the boundaries of said county, for the assessment of benefits therein and for the impounding of said assessments and the issuance of obligations, pledging the faith and credit of said counties based on such impounded assessments, and said charters may provide that in addition to such governmental powers as now are or may hereafter be exercised by counties, towns or other independently governed districts, said counties may be divided into separate zones or areas for taxing, bonding, or other purposes, and providing such counties may have the power to borrow money and issue their obligations so long as the total outstanding indebtedness at any one time does not exceed twenty-five (25%) per cent of the assessed taxable values of the real estate within such counties which obligations must be payable serially and voted by the people unless they are issued to pay a lawful debt, and providing that no part of the Constitution inconsistent with this section shall control any county charter, but providing that no charter shall inconsistently affect the operation of the General Laws of the State, except the governing body of any such county may prescribe a schedule of fees of office which may be less than

that prescribed in the General Laws of the State, and providing for the adoption of said charters by a vote of the people, and providing that any county having once elected to operate under a charter may abandon the powers therein contained, and providing further that no charter shall be adopted containing a provision inimical to or inconsistent with the sovereignty and established public policy of the State, and further providing that the Legislature shall pass all laws necessary to carry out the intent and purpose of this section of the Constitution.

Read third time and finally passed by the following vote:

Yeas—21.

Blackert.	Parr.
Collie.	Patton.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Russek.
Hornsby.	Stone.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

Nays—2.

DeBerry.	Poage.
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Absent.

Regan.

Absent—Excused.

Beck.	Oneal.
Cousins.	Sanderford.
Greer.	Small.
Martin.	

S. J. R. No. 20.

Senator Duggan called up from the table S. J. R. No. 20.

The Chair substituted for S. J. R. No. 20 the following House resolution on the same subject:

H. J. R. No. 14, Proposing an amendment to Article V, of the Constitution of the State of Texas, by adding a new section thereto with four lettered subdivisions, providing for the abolishment of the fee method of compensating county and precinct officers, and providing that all such officers be paid on a salaries basis, and providing for the payment of all fees into the county treasury;

and conferring upon commissioners court general management and control of county affairs; and providing for the appointment of certain officers by the commissioners court, and the combining of any such offices, etc.; repealing all provisions of the Constitution in conflict therewith; and providing for an election upon such proposed constitutional amendment, and making an appropriation therefor.

Read second time.

Senator Purl sent up the following amendments:

Amend H. J. R. No. 14 by striking out subsection A in quoted Section 2a under the main Section 1, and renumber the sections to conform.

PURL,
DeBERRY.

Read and adopted.

Amend H. J. R. No. 14, by amending caption to conform to the body of the bill.

PURL,
DeBERRY.

Read and adopted.

The resolution was passed to engrossment by the following vote:

Yeas—24.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Oneal.
Cousins.	Sanderford.
Greer.	Small.
Martin.	

Message From the House.

Hall of the House of Representatives,
Austin, Texas, April 24, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 139, A bill to be entitled "An Act to amend Articles 6229,

6230, 6231, 6232, 6233, 6234, 6235, 6236, 6237, 6238, 6239, 6240, 6241, 6242, and 6243, Title 109, Chapter 2, of the Revised Civil Statutes of 1925, providing pension fund for employees of cities and towns over ten thousand (10,000) inhabitants in the State of Texas, and declaring an emergency."

(With amendments.)

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Motion to Reconsider.

Senator Woodruff moved to reconsider the vote by which S. B. No. 360 was finally passed and spread the motion on the Journal.

S. J. R. No. 7.

The Chair laid before the Senate on its second reading the following resolution:

By Senator Woodul:

S. J. R. No. 7, Proposing an amendment to Article IX of the Constitution of the State of Texas so as to authorize counties having cities of a population in excess of 200,000 inhabitants to adopt suitable charters providing for the government of such county, city and any or all governmental districts, municipal or quasi-municipal, within such county, subject to such limitations as may be prescribed by the Legislature; providing for an election upon such proposed constitutional amendment, and making an appropriation therefor.

Read second time and passed to engrossment by the following vote:

Yeas—24.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Greer.
Cousins.	Martin.

Oneal.	Small.
Sanderford.	

Senate Bill No. 502.

The Chair laid before the Senate on its second reading by unanimous consent the following bill:

By Senator Poage:

S. B. No. 502, A bill to be entitled "An Act amending Section 2, of Chapter 34 of the Acts of the First Called Session of the Forty-first Legislature of the State of Texas, so as to authorize the commissioners court of McLennan County to fix the salary of the road supervisor of said county; and by amending Section 22, of said Chapter 34 of the Acts of the First Called Session of the Forty-first Legislature, as amended by Chapter 26 of the Acts of the Second Called Session of the Forty-second Legislature of the State of Texas, so as to provide that county commissioners in McLennan County shall receive no compensation other than that provided by general law; repealing all laws and parts of laws in conflict therewith, and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Poage, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 502 was put on its third reading and final passage by the following vote:

Yeas—24.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Oneal.
Cousins.	Sanderford.
Greer.	Small.
Martin.	

Read third time and finally passed by the following vote:

Yeas—24.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Oneal.
Cousins.	Sanderford.
Greer.	Small.
Martin.	

S. J. R. No. 1.

The Chair laid before the Senate on its third reading the following resolution:

By Senator Oneal:

S. J. R. No. 1, Proposing an amendment to Section 9 of Article VIII of the Constitution of the State of Texas.

Providing that for all years after 1934 the State tax on property, exclusive of the tax necessary to pay the public debt and the taxes provided for the benefit of public free schools and of taxes for the Confederate Pension, shall never exceed fifteen cents on the one hundred dollar valuation, and providing for municipal taxation as is now provided in Section 9 of Article 8, of the Constitution of the State of Texas.

Read third time and finally passed by the following vote:

Yeas—23.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Woodruff.
Murphy.	Woodul.
Neal.	Woodward.
Pace.	

Nays—1.

Stone.

Absent—Excused.

Beck.	Oneal.
Cousins.	Sanderford.
Greer.	Small.
Martin.	

Senate Bill No. 222.

The Chair laid before the Senate as special order the following bill:

By Senator Moore:

S. B. No. 222, A bill to be entitled "An Act amending Article 1499 and repealing Articles 1500, 1501, 1502, and 1506, Chapter 15, Title 32, Revised Civil Statutes of 1925 relating to the purposes for which private corporations may be formed; prohibiting a corporation, joint stock association, and association of persons engaged in the production or refining of crude petroleum from owning or owning stock or other interest in common carrier pipe lines or pipe line companies, and fixing a time for conforming to the provision of this Act, and declaring that the ownership of stock in common carrier pipe lines by corporations, joint stock associations, and associations of persons engaged in the production or refining of crude petroleum oil tends to create a monopoly and is in conflict with the anti-trust laws of the State of Texas and declaring same to be unlawful, and declaring an emergency."

On motion of Senator Moore, the bill was laid on the table subject to call.

Senate Bill No. 100.

The Chair laid before the Senate on its second reading the following bill:

By Senator Holbrook:

S. B. No. 100, A bill to be entitled "An Act making appropriations to cover deficiencies in appropriations heretofore made for the support of the Judiciary Department of the State government for the fiscal years ending August 31, 1928, 1929, 1930 and 1931, and declaring an emergency."

Read second time.

Senator Holbrook sent up the following amendment:

Amend S. B. No. 100 by adding the following:

"There is hereby appropriated the

sum of \$12,500.00 to the State Comptroller's Department and the sum of \$12,500.00 to the State Auditor's Department for the purpose of auditing any and all outstanding deficiency certificates," and amend the caption to conform.

HOLBROOK.

The amendment was read and adopted.

Senator Poage sent up the following amendment:

Amend S. B. No. 100 by adding thereto after line 42 the following:

To pay to Allen D. Sanford, Tom S. Hardin Jr., and C. S. Bradley as special judges in the case of R. H. Cousins vs. Sovereign Camp of Woodmen of the World, \$410.70, and by changing the grand total so as to conform.

POAGE.

Read and adopted.

Senator Woodruff sent up the following amendment:

Amend S. B. No. 100 by adding thereto after the Poage amendment the following:

To pay O. C. Mulkey of Commerce for service as Associate Justice Supreme Court, \$73.00.

To pay E. M. Dodson, Marlin, Texas, expense incurred while holding court outside his district, \$39.53.

To pay S. W. Dean, Navasota, Texas, expenses incurred while holding court outside his district, \$23.75.

To pay Judge John Watson, Cameron, Texas, expense incurred while holding court outside his district, \$16.80.

To pay J. M. Caldwell, Midland, Texas, balance due for services as member Court of Civil Appeals, Eighth Supreme Judicial District, El Paso, Texas, \$963.62.

To pay Gowan Jones for services rendered as associate justice, Eighth Supreme Judicial District, El Paso, Texas, \$977.31.

To pay A. R. French for services rendered as special district attorney in felony cases, Titus County, Texas, \$60.00, and amend totals to conform.

WOODRUFF.

Read and adopted.

Senator Pace sent up the following amendment:

Amend S. B. No. 100 by adding

thereto at end of line 46 the following: "But in making the audit the auditor shall not go back and beyond a period ending January 1, 1927."

PACE.

Read and adopted.

Senator Patton sent up the following amendment:

Amend Senate Bill No. 100 by adding to Section 1 the following:

To pay regular district judge for unpaid salary during the year 1929, \$1736.08, and amending grand total to conform.

PATTON.

The amendment was read.

Motion to Concur.

Senator Woodul moved to concur in the House amendments to S. B. No. 139. The motion prevailed by the following vote:

Yeas—23.

Blackert.	Patton.
Collie.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Mbore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.
Parr.	

Nays—1.

DeBerry.

Absent—Excused.

Beck.	Oneal.
Cousins.	Sanderford.
Greer.	Small.
Martin.	

Recess.

On motion of Senator Woodward, the Senate, at 12:17 o'clock p. m., recessed until 2:30 o'clock p. m.

After Recess.

The Senate met at 2.30 o'clock p. m., pursuant to recess, and was called to order by Senator Hornsby.

Senate Bill No. 100.

The question recurred upon the pending amendment (by Senator Patton) to S. B. No. 100.

Senator Patton withdrew the amendment.

Senator Moore sent up the following amendment:

Amend S. B. No. 100 by adding a new paragraph at the end of Section 1, as follows:

"The Comptroller is hereby directed to issue warrants in payment of all costs otherwise legal, incurred by sheriffs by informant of the Child and Wife Desertion Statute, before said statute was held invalid, provided such claims are made out according to existing fee laws and rulings of the Attorney General pertaining to felony indictments, and provided further that all such claims are audited by the State Auditor and Efficiency Expert."

MOORE.

Read and adopted.

The bill was passed to engrossment.

On motion of Senator Holbrook, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 100 was put on its third reading and final passage by the following vote:

Yeas—25.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Pace.	

Absent—Excused.

Beck.	Martin.
Cousins.	Sanderford.
Greer.	Small.

Read third time and finally passed by the following vote:

Yeas—24.

Blackert.	Hornsby.
Collie.	Moore.
Duggan.	Murphy.
Fellbaum.	Neal.
Holbrook.	Oneal.
Hopkins.	Pace.

Parr.	Regan.
Patton.	Russek.
Poage.	Stone.
Purl.	Woodruff.
Rawlings.	Woodul.
Redditt.	Woodward.

Nays—1.

DeBerry.

Absent—Excused.

Beck.	Martin.
Cousins.	Sanderford.
Greer.	Small.

Senate Bill No. 505.

Senator Russek asked unanimous consent to take up out of its regular order S. B. No. 505.

Objection was heard.

Senator Russek moved to take up the bill out of its regular order and lay it on the table subject to call.

Senator DeBerry raised the point or order that the motion contained two subjects and that first the regular order of business must be suspended by a two-thirds vote and then a motion to lay the bill on the table subject to call would be in order.

The Chair, Senator Hornsby, sustained the point of order.

Senator Russek moved to suspend the regular order of business and take up S. B. No. 505.

Senator Russek withdrew the motion.

Senate Bill No. 246.

The Chair laid before the Senate on its second reading as special order, the following bill:

By Senators Small and Parr:

S. B. No. 246, A bill to be entitled "An Act to amend Article 5368, Revised Civil Statutes of Texas of 1925, so as to constitute the owner of the soil the agent of the State to institute and prosecute in his own name any suit or suits to set aside for fraud or other illegality or invalidity any sale or lease to any person, firm or corporation of the oil, gas or other minerals, on or under any such land, and to validate all suits, heretofore brought, for such purposes by the owner of the soil and authorize the continued prosecution to final judgment of any such suits in the

name of said owner and to make the said judgments rendered in said causes binding upon the State, and declaring an emergency."

The committee substitute was adopted.

The three committee amendments and the suggested committee amendment were adopted.

Senator Purl sent up the following amendment.

Amend S. B. No. 246, page 3, Section 1, line 28, by adding the following:

"Said 10% bonus paid county or district attorney referred to in this section shall be considered accountable fees of office."

PURL.

Read and adopted.

Senator Woodruff sent up the following amendment:

Amend committee amendment to S. B. No. 246 by adding at the end of Section 1 the following:

"Provided, however, that the State shall be entitled to recover one-half of all bonus money or monies paid to the surface owner or owners, and in the event any lessee pays to a surface owner or owners a bonus for one-half of which no accounting is made to the State, the Attorney General shall immediately institute suit against said lessee to recover of and from such lessee one-half the bonus so paid or agreed to be paid. Said lessee shall become liable to the State therefor upon a showing that such accounting has not been so made to the State."

WOODRUFF.

The amendment was read.

Senator Parr moved to table the amendment. The motion prevailed by the following vote:

Yeas—13.

Blackert.	Parr.
Collie.	Patton.
Duggan.	Regan.
Hopkins.	Russek.
Hornsby.	Woodul.
Neal.	Woodward.
Pace.	

Nays—10.

DeBerry.	Poage.
Holbrook.	Purl.
Moore.	Rawlings.
Murphy.	Stone.
Oneal.	Woodruff.

Absent.

Fellbaum. Redditt.

Absent—Excused.

Beck.	Martin.
Cousins.	Sanderford.
Greer.	Small.

Senator Holbrook sent up the following amendment:

Amend substitute for S. B. No. 246 by adding to end of Section 1, follows:

"Any suit brought under the provision of this Act shall at all times be subject to the absolute and exclusive control of the Attorney General of the State of Texas; and no agreed judgment shall be entered into except by the consent and written approval by the Attorney General of the State."

HOLBROOK.

The amendment was read.

Senator Parr moved to table the amendment. The motion prevailed by the following vote:

Yeas—14.

Blackert.	Patton.
Duggan.	Purl.
Hopkins.	Redditt.
Hornsby.	Regan.
Neal.	Russek.
Pace.	Woodul.
Parr.	Woodward.

Nays—9.

Collie.	Poage.
DeBerry.	Rawlings.
Holbrook.	Stone.
Murphy.	Woodruff.
Oneal.	

Absent.

Fellbaum. Moore.

Absent—Excused.

Beck.	Martin.
Cousins.	Sanderford.
Greer.	Small.

Senator Purl moved to reconsider the vote by which the motion to table prevailed. The motion to reconsider prevailed by the following vote:

Yeas—13.

Collie.	Holbrook.
DeBerry.	Moore.

Oneal.
Parr.
Poage.
Purl.
Rawlings.

Redditt.
Stone.
Woodruff.
Woodward.

Nays—8.

Blackert.
Hopkins.
Hornsby.
Neal.

Pace.
Patton.
Regan.
Woodul.

Absent.

Duggan.

Fellbaum.

Absent—Excused.

Beck.
Cousins.
Greer.

Martin.
Sanderford.
Small.

(Pair Recorded.)

Senator Russek (present) who would vote nay with Senator Murphy (absent), who would vote yea.

The motion to table the amendment (by Senator Holbrook) was lost by the following vote:

Yeas—10.

Blackert.
Hopkins.
Hornsby.
Neal.
Pace.

Parr.
Patton.
Regan.
Russek.
Woodul.

Nays—12.

Collie.
DeBerry.
Holbrook.
Murphy.
Oneal.
Poage.

Purl.
Rawlings.
Redditt.
Stone.
Woodruff.
Woodward.

Absent.

Duggan.

Fellbaum.

Absent—Excused.

Beck.
Cousins.
Martin.

Sanderford.
Small.

(Pair Recorded.)

Senator Moore (present) who would vote nay with Senator Greer (absent), who would vote yea.

The amendment was adopted by the following vote:

Yeas—11.

Collie.
DeBerry.
Holbrook.
Murphy.
Oneal.
Poage.

Purl.
Rawlings.
Redditt.
Stone.
Woodward.

Nays—11.

Blackert.
Hopkins.
Hornsby.
Neal.
Pace.
Parr.

Patton.
Regan.
Russek.
Woodruff.
Woodul.

Absent.

Duggan.

Fellbaum.

Absent—Excused.

Beck.
Cousins.
Martin.

Sanderford.
Small.

(Pair Recorded.)

Senator Moore (present) who would vote yea with Senator Greer (absent), who would vote nay.

The Chair voted yea.

Senator Woodruff sent up the following amendment:

Amend committee amendment to S. B. No. 246 by adding a new section number 1a as follows:

"Sec. 1a. Provided, however, that no provision contained in Section 1 of this Act shall apply to or affect any money that may now be, or that hereafter may become, due and payable to the Public School Fund under the terms and provisions of the Acts of the Second Called Session of the Legislature of Texas of 1919, known as the Relinquishment Act."

WOODRUFF,
STONE.

Read and adopted.

Senator Poage sent up the following amendment:

Amend committee amendment No. 1 as adopted by adding thereto the following:

"or to any litigation hereafter brought that may be based on the same facts as any pending suit."

POAGE.

Read and adopted.

Senator Purl sent up the following amendment:

Amend the Committee Substitute to S. B. No. 246, page 3, lines 4 and 5 by striking out the words "of the county in which said land is situated." And insert in lieu thereof the following: "of Travis County, Texas."

And in line 13, page 3, by striking out the following: "of the county in which said land is situated" and inserting in lieu thereof the following: "of Travis County, Texas."

PURL,
HOLBROOK,

Read and lost by the following vote:

Yeas—7.

DeBerry.	Purl.
Holbrook.	Rawlings.
Oneal.	Woodruff.
Poage.	

Nays—16.

Blackert.	Parr.
Collie.	Patton.
Duggan.	Redditt.
Hornsby.	Regan.
Moore.	Russek.
Murphy.	Stone.
Neal.	Woodul.
Pace.	Woodward.

Absent.

Hopkins.

Absent—Excused.

Beck.	Martin.
Cousins.	Sanderford.
Fellbaum.	Small.
Greer.	

Senator Regan sent up the following amendment:

Amendment to Holbrook amendment: Strike out all of said amendment except the provision that "no judgment shall be entered in any suit except with the written consent of the Attorney General of the State of Texas."

REGAN.

The amendment was read.

Senator Hornsby moved the previous question on the amendment and the engrossment of the bill. The motion was lost by the following vote:

Yeas—11.

Blackert.	Hornsby.
Duggan.	Pace.
Hopkins.	Parr.

Patton.
Regan.
Russek.

Woodul.
Woodward.

Nays—13.

Collie.	Poage.
DeBerry.	Purl.
Holbrook.	Rawlings.
Moore.	Redditt.
Murphy.	Stone.
Neal.	Woodruff.
Oneal.	

Absent—Excused.

Beck.	Martin.
Cousins.	Sanderford.
Fellbaum.	Small.
Greer.	

Message From the House.

Hall of the House of Representatives,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that Mr. Canon has resigned from conference committee considering differences between the two Houses on H. B. No. 231. Mr. Stanfield has been appointed on the part of the House.

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Senate Bill No. 52.

On motion of Senator Woodward, the vote by which S. B. No. 52 was finally passed was reconsidered.

Senator Woodward sent up the following amendments:

Amend S. B. No. 52 by striking out of Section 1, page 2, at the end of said Section 1, the following words: "and shall be recorded by him in a book kept for that purpose."

And by striking out of Section 2 on the next line from the bottom of said Section 2 "and record."

WOODWARD.

Read and adopted by unanimous consent.

Amend S. B. No. 52 by adding after the word "section" the word and figure "Sec. 3" preceding the words "The Secretary of State" in line 1 of Section 3, the following:

"Upon the payment of a \$2.00 fee evidenced by cash, money order or cashier's check, which must accompany the process."

And by adding at the end of Section 3 the following:

"The fees collected under the provisions of this section shall be used by the Secretary of State to pay postage and registry fees and other incidental expense in connection with the requirements of this section, any surplus remaining at the end of the biennium to be paid into the general fund of the State."

WOODWARD.

Read and adopted by unanimous consent.

Amend S. B. No. 52 by adding in Section 6, line..... after the word "and" the following, to-wit: "was."

WOODWARD.

Read and adopted by unanimous consent.

Amend Senate Bill No. 52 by adding a new section between Sections 11 and 12 to read as follows:

"Section The service of process upon the Assistant Secretary of State shall be construed as service upon the Secretary of State, and the same duties shall devolve upon the Assistant Secretary of State to the same extent and for the same purposes as herein provided as to the Secretary of State."

WOODWARD.

Read and adopted by unanimous consent.

Amend the caption to conform to the body of the bill.

WOODWARD.

Read and adopted by unanimous consent.

The bill was finally passed by the following vote:

Yeas—24.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Holbrook.	Rawlings.
Hopkins.	Redditt.
Hornsby.	Regan.
Moore.	Russek.
Murphy.	Stone.
Neal.	Woodruff.
Oneal.	Woodul.
Pace.	Woodward.

Absent—Excused.

Beck.	Fellbaum.
Cousins.	Greer.

Martin. Small.
Sanderford.

Conference Committee Appointed.

The Chair announced the appointment of the following Senate conferees on H. B. No. 807:

Hopkins, Woodward, Collie, Rawlings, and Regan.

Adjournment.

Senator Hornsby moved to recess until 10 o'clock tomorrow morning.

Senator Woodruff moved to recess until 8 o'clock p. m. today.

Senator Purl moved to adjourn until 10 o'clock tomorrow morning.

The motion to adjourn prevailed, and, at 6:01 o'clock p. m., the Senate adjourned.

APPENDIX.

Committee on Enrolled Bills.

Committee Room,

Austin, Texas, April 24, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 139 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 21, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 133 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 21, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 294 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 21, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 314 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 484 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee on Engrossed Bills.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 502 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. J. R. No. 7 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 100 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 50 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 529 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on En-

grossed Bills, have had S. B. No. 274 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April, 22, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 526 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 319 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 429 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 137 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 417 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 4 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 492
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 491
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 44
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 337
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 171
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 148
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-

grossed Bills, have had S. B. No. 359
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 275
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 56
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 380
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 461
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 360
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on En-
grossed Bills, have had S. B. No. 5
carefully examined and compared,
and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 77 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 220 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 493 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 242 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,
Austin, Texas, April 21, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 170 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Reports.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 529, A bill to be entitled "An Act amending Section 1 of Chapter 114 of the Local and Special Laws of the State of Texas passed by the Thirty-ninth Legislature at

its Regular Session, and providing for the validating of assessments of taxes heretofore levied and assessed on territory within the boundaries of the Markham Independent School District in Matagorda County, Texas, as set out in the original bill; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

NEAL, Chairman.

Committee Room,
Austin, Texas, April 25, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Banking, to whom was referred

S. B. No. 440, A bill to be entitled "An Act to amend Articles 450, 451 and 539 of the Revised Civil Statutes of Texas; providing for the liquidation of solvent banks through the Banking Commissioner of Texas; providing for procedure for such liquidation; and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass.

RUSSEK, Chairman.

Committee Room,
Austin, Texas, April 24, 1933.
Hon. Edgar E. Witt, President of the
Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 126, the same being an Act providing the means by which counties may adopt home rule charters under the constitutional amendment, S. J. R. No. 3, and providing the procedure therefor.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal.

WOODWARD, Chairman.

By Rawlings. S. B. No. 126.

A BILL

To Be Entitled

An Act to make provision for: 1. (Section 1) To anticipate the submission and adoption of the proposed constitutional amendment to provide for the adoption of a home rule charter by any county

in Texas, upon a vote of the qualified resident electors of any county, all as proposed in the pending Senate Joint Resolution No. 3. Reference to said proposed amendment to the Constitution, in the exact form for submission to the electors of the State, here is made, to the same effect as though it were embodied herein. Further providing (Section 20 hereof) that, no county charter provision impairing the operation of the General Laws of the State relating to the judicial, tax, fiscal, educational, police, highway and health systems of the State, or any department of the State's superior government may have effect as against the State. 2. (Section 2) Making provision for calling conventions in each voting precinct in a county, for the selection of resident delegates to a county convention to be held for the selection of a charter drafting commission, to be composed of persons considered capable of drafting, or to give aid in drafting, a charter deemed to conform to the will and needs of the qualified resident electors of the county, and to be subject to adoption or rejection by vote of the people of the county, under the express conditions of the proposed amendment and the procedural safeguards of this Act. 3. (Section 3). Fixing the qualifications of the signers of a petition for calling a county charter convention, the qualifications of persons who may participate in charter conventions and the qualification of voters in a charter election. Also fixing the manner for publishing notice and of giving of written notice of various acts required hereby to be done, and prescribing the time for such notices. Also permitting the charter drafting commission to prescribe reasonable notice to its members concerning its meetings and acts. 4. (Section 4). Fixing the form of a petition for the submission of a county charter proposal and prescribing the number and qualifications of signers thereof providing for the filing thereof with the clerk of the commissioners court of the county, and defining his duties relating thereto. 5. (Section 5). Fixing

the time for action by the court upon such petition, and requiring the court to enter its order on such petition, calling a convention in each voting precinct of the county, prescribing the time for holding such precinct conventions and defining their duties. Also providing for the designation of the day, hour and place for holding each precinct convention. Also providing that the court's order shall fix the day, hour and place for holding the county charter convention: Prescribing the limits of time within which precinct and county conventions must be held. 6. (Section 6). Prescribing the substantive form of the notice of the court's order calling the conventions (including the form of the credentials of delegates, and alternate delegates, from precinct conventions to county conventions and direction for the use of same) and requiring publication of such notice. 7. (Section 7). Specifying that precinct conventions shall be held and proceed for their business, all as fixed in the notice to be published by the commissioners court. 8. (Sections 8, 9 and 10). Prescribing the manner of organizing the county convention for business; its procedures after organization; its duty to fix the number of persons to serve as a charter drafting commission and to select persons qualified to serve thereon. Providing for fifty-one or more per centum of the total authorized members of the convention to constitute a quorum. Requiring that a journal of all proceedings be kept, showing all yea and nay ballots on each substantive question. Providing for recesses of the convention and notice of reassembling, but forbidding adjournment until its duties have been performed. Providing various procedural safeguards and requiring that service in the convention be without compensation. 9. (Section 11) (a) Prescribing the time for meeting and organization of the charter drafting commission; fixing its quorum for business and providing for filling vacancies thereon by the commissioners court. Authorizing the commission to adopt reasonable

rules to control notice of its meetings and its procedures. (b) Providing that service on the commission be without compensation, but authorizing the commission to incur certain specified necessary expenses and limiting the same; prescribing how such expense may be proved, certified and paid by the county. (c) Providing the time within which the commission must conclude its labors and requiring that the record of its proceedings and all pending written proposals be open to inspection by the public. (d) Providing for alternate and elective charter provisions to be written and submitted for choice by vote of the electors. Providing the commission's certificate of recommendation of adoption of the proposed charter drafted by it. (e) Providing that if the charter commission originally chosen fails to produce and certify a proposed charter within 180 days next after its appointment it automatically shall be discharged, and a new charter commission chosen by the reassembled county convention, after procedures and notice for reassembly as by this Act provided. Providing for organization, procedure and the performance of duty of the substitute commission as provided for a defaulting commission. (f) Providing that the commission upon certification of preliminary recommendation of adoption of a charter, by its order shall fix not less than five times and places in the county for public hearing on the charter as then proposed, and shall cause notice thereof, together with a complete certified copy of the proposed charter, to be published as prescribed in Section 3 of this Act. Fixing the time for such publications, the limit in time for such hearings, and providing the procedure for such hearings. Requiring that all qualified resident electors be heard at such hearings. Providing that, within ten days after such hearings the commission shall make such revision of the proposed charter as by them may be deemed for the betterment thereof. 10. (Section 12). Fixing the time within which the commission shall prepare its report of a final rec-

ommendation for the adoption of the charter drafted by it. Requiring this report and request for the holding of a charter election, to be filed with the commissioners court of the county. Requiring the report to be accompanied by two true copies of the proposed charter and prescribing the form for such report and request. 11. (Section 13) (a) Prescribing the duties of the clerk of the court and the duties of the court with reference to such report. (b) Requiring the court by order to call a county charter election, and fixing the time therefor. (c) Providing that the election be conducted after such notice and as is or may be provided by the laws of Texas regulating general elections, save as to those matters specifically provided in this Act, as being peculiarly appropriate to the subject matter of the Act. Providing for the printing of copies of the proposed charter and distribution of copies thereof in each voting precinct of the county requiring that the charter, with alternate provisions, if any, be published in full in the published notice of election; providing for ballots and the propositions or proposals to be printed thereon, and prescribing the manner in which the choice of the electors shall be determined. Providing that no proposal to consolidate or merge governmental functions of separate governmental agencies or bodies politic may be voted on at an election held for the original adoption of a charter; Providing that a charter once adopted may make provision whereby such consolidations may be submitted to the voters of the county, as authorized by said proposed amendment to the Constitution. 12. (Section 14). Providing for canvass of the returns and declaration of the result to be performed by the commissioners court and the charter drafting commission sitting jointly as a board therefor, and providing for contest of such elections as provided for contest of general elections, but requiring as a condition precedent to a judicial review that certain procedures be taken as specified in subdivisions (a), (b),

(c) and (d) of Section 14 of this Act. Also providing that the findings of the joint board of review composed of the commissioners court, and the charter commission be received in evidence in the court of jurisdiction of the contest, and that such findings shall constitute prima facie proof of the facts stated therein. 13. (Section 15). Providing (in conformity to the provisions of said amendment to the Constitution) that a proposed charter shall be adopted only upon a favoring majority of the votes cast in the election. Providing that if a proposal to adopt a charter is defeated, no other such proposal may be initiated at a time less than twelve months. Providing that charters hereunder may contain provisions regulating the adoption of amendments thereto, but may not forbid amendment for a period to exceed two years; also providing that in the absence of such charter provisions, a charter adopted hereunder may be amended at any time. 14. (Section 16). Providing that all charters adopted hereunder shall contain provisions for procedure for the abandonment thereof and return of the county to operate under the General Laws of the State, but requiring such proposals must be determined by a majority vote of the electors of the county. 15. (Section 17). Providing the means whereby proponents of the adoption or amendment of a charter may advance money to pay the cost of procedures hereunder in case money therefor be not available to the county and providing means whereby they may be repaid such advances as and when money therefor may be available to the county. 16. (Section 18). Relating to the qualifications of judicial officers in conformity to subdivision b of Section 3 of said amendment to the Constitution.

Be it enacted by the Legislature of the State of Texas:

Section 1. This Act anticipates the adoption of an amendment to the Constitution of Texas as proposed by an act of this Legislature, designated as S. J. R. No. 3, relating to home rule charters for counties and is enacted to create in the minds of the

people certainty as to adequate safeguards to control the writing and adoption of such charters and to avoid delay in making effective the will of the people in case said amendment be adopted, as Section 3 of Article IX of the Constitution. In case of the rejection of said proposed amendment, this Act instantly shall be without force or effect. At the instant of the adoption of said proposed amendment, all provisions of this Act shall be in full force and have controlling effect.

Sec. 2. This Act shall apply to any county of Texas, desiring to adopt a home rule charter under the powers, and within the limitations, expressed by Section 3 of Article IX of the Constitution of Texas; and, the people of any county who may desire to move for the adoption of a county charter, under such constitutional provisions shall proceed thereto by calling a convention in each voting precinct of the county for the purpose of choosing a delegate and an alternate delegate to a county-wide convention; which convention shall be charged with the duty to select a charter drafting commission to be composed of persons considered capable of drafting, or to give aid in drafting, a charter deemed to conform to the will and needs of the qualified resident electors of the county; and, to be subject to rejection or adoption by vote of the people of the county; all to be done in keeping with the provisions of said amendment and under the procedural safeguards by this Act provided.

Sec. 3. All persons hereinafter referred to as the signers of petitions, as participating in precinct or county conventions and as voting in elections, to be held hereunder, shall be understood to mean resident qualified electors of the affected county.

Where the publication of notice is required, unless otherwise provided as to a given case, such notice shall be given by publication in one or more newspapers, giving general circulation in the county, at least one day in each of two consecutive weeks, and to give not less than fourteen days from the first day of such publication to the day of any proposed act to which such notice may relate, excluding the day of first.

publication and the day of the proposed act. The mailing of notice, as later in this Act may be required, unless otherwise provided as to a given case, shall be given by depositing in the United States mail written notice, appropriately addressed to the person or persons proper to have notice of a given matter, giving advice of the time and place at which any given proposed act is to be considered or done. Not less than two nor more than ten business days (to be exclusive of the day of the mailing of the notice and the day of a proposed act) may run between the mailing of such notice and any desired meeting for the performance of an act to be done hereunder, all as hereinafter will be required; provided, however, calls for meetings of the charter drafting commission (hereinafter provided for) shall be as established by it, as being reasonable, fitting and necessary.

Sec. 4. Proponents of the adoption of a county charter hereunder, subject to the further provisions of this section, may procure and present to the commissioners court of the county (hereinafter designated as the "court") one or more petitions, bearing the true date upon which the circulation thereof began, seeking the calling of precinct and county conventions (as hereinafter provided for), and identical petitions signed by different qualified persons shall be considered as one petition. Only persons who are resident qualified voters of the county, owning real estate subject to the county's tax may validly sign the petitions hereby provided for. The minimum number of signatures required upon such petitions shall be determined upon the county population basis, as given in the Federal census issued next prior to the date of a given petition, and to be as follows: Counties of 5000 population or under, 100; counties of 5001 to 10,000, 200; counties of 10,001 to 25,000, 300; counties of 25,001 to 75,000, 400; counties of 75,001 to 150,000, 500; counties of 151,000 or more, 600. Any form of petition which indicates the desire to proceed for the adoption of a home rule charter for the county (which hereinafter may be referred to as the "charter"), under said Section 2 of Article IX of the Consti-

tution shall be sufficient. Upon the delivery of such petition it shall be the duty of the clerk of said court to mark the day of filing thereon, and thereafter, as soon as may be done, to record the same in the minutes of the court as a part of the order which the court must enter in compliance with the petition.

Sec. 5. At the first meeting of the court after the filing of any such petition, or at any time not to exceed ten days after the filing of such a petition, it shall be the duty of the court to enter its order to execute said petition by calling a precinct charter convention (hereinafter provided for) in each voting precinct of the county, as defined and designated at the time any such petition may bear date, for the purpose of selecting one delegate and an alternate from each precinct to participate in a county convention (hereinafter provided for). The court's call shall fix the time for holding such precinct conventions, for a time not less than twenty days nor more than thirty days after the date of the calling order, and shall fix the time for the holding of the county convention for a time not less than ten days nor more than twenty days after the time set for holding precinct conventions.

The call shall designate for each precinct a place therein for the holding of its convention and shall specify the time for opening such conventions at ten o'clock of the morning. Such call also shall specify a place in the county seat (preferably a designated room in the county court house) for the holding of the county convention, and shall designate an opening hour therefor not earlier than ten o'clock morning and not later than two o'clock of the afternoon.

Sec. 6. The form of the call provided for in Section 5 hereof shall be in form substantially as follows:

State of Texas	} Notice:
County of _____	
To Each Resident Qualified Elector of This County:	

Complying with a petition seeking the adoption of a County Home Rule Charter, filed with the county commissioners court of this county on the _____ day of _____,

19____, we issue and publish this call for precinct conventions and a county convention to provide a commission to draft a proposed charter to be submitted to a vote of the qualified electors of this county.

You respectively hereby are notified to be present at ten o'clock in the morning on the _____ day of _____, 19____, at the place hereinafter designated for the county voting precinct in which you may reside, for the purpose of participating in a precinct convention for the election of one delegate and one alternate to represent your precinct in a county convention to be held in (name place, city, or town and designate the place therein), and to convene at _____ o'clock _____ m., on the _____ day of _____, 19____.

In the precinct convention each qualified person present and participating (to exclude all persons who are not qualified voters residing in the precinct) shall be entitled to one vote each on each question presented, and all questions shall be determined by a majority of the votes cast. Organization shall be effected by choice of a temporary secretary, to be followed by selection of a permanent chairman and a permanent secretary. The procedure shall be under Roberts' Rules of Order or other orderly procedure. All votes save those incident to organization, shall be by written ballot. The convention by majority vote, will choose one delegate and one alternate to participate in the county convention, both of whom must reside in the county voting precinct to be represented by them. When the delegate and the alternate shall have been chosen, the chairman and the secretary of the convention, in the presence of the convention shall sign the credentials of the delegate and the alternate, both of whom shall countersign the credentials for identification, if required by the county convention. The credentials shall be sufficient if in form substantially as follows:

_____, 19____

To County Convention:

This certifies to you that _____
(whose postoffice address is _____), as delegate, and _____
(whose postoffice address is _____)

_____), as alternate, will be authorized to represent precinct No. _____, in your proceeding.

Chairman.

Secretary.

Countersigned:

Delegate.

Alternate Delegate.

The credentials so executed shall be placed in an envelope bearing the secretary's name written across the closed seal, and delivered by the delegate, or the alternate, to the temporary secretary of the county convention at the time of its convening. Whereupon, the persons so certified shall be entitled to represent your precinct in the county convention. The official county voting precinct numbers and the respective places for holding the several precinct conventions follow, viz.:

Precinct Number.

(Here Designate.)

Place of Convention.

(Here Designate.)

Commissioners Court of _____
County, Texas.

Attest:

By _____
County Judge.

Clerk.

(Seal.)

Said notice, as soon as may be done, shall be published as provided in Section 3 of this Act. No error in the form of the notice or the printing thereof which is not harmfully misleading, after the exercise of reasonable diligence to know the truth, shall invalidate the call for the conventions.

Sec. 7. The precinct conventions shall be held, organized and shall proceed to a conclusion as specified in the convention call written in Section 6 hereof.

Sec. 8. The county convention shall convene at the time and place designated in the call therefor (or other well known adequate place, if it be not convenient to occupy the place originally designated), and shall proceed to temporary organization as provided for precinct conventions. The temporary chairman shall call for the presentation of credentials of delegates and their

alternates, whereupon the temporary chairman and temporary secretary, in the presence of all persons present who may desire to supervise, shall open the credentials and shall prepare a written permanent roll of all persons shown by the credentials to be authorized to participate in the further proceedings of the convention. Upon the roll shall be noted those delegates (and alternates for absent delegates) who may be present for participation in the convention. Procedure shall be in accordance with Roberts' Rules of Order. The presence at roll call for the opening session of the convention of fifty-one, or more, per centum of the total number of authorized delegates shall constitute a quorum for the conduct of business during such session and until final adjournment and dissolution of the convention.

All questions shall be decided by a majority of the votes cast thereon. An alternate shall be permitted to participate in the proceedings of the convention only in the absence or non-participation of the delegate for whom such alternate was chosen. All votes shall be by written ballot bearing the voter's name and precinct number. The respective yeas and nays upon every question shall be recorded by name, in the presence of the convention, the result of each ballot shall be declared to the convention in an audible voice and shall be recorded in the convention's journal, in a manner showing each issue decided by each ballot taken. The convention may recess from time to time, but may not adjourn, until the work is ended; provided that, the time and place for resuming its session after a recess thereof shall be announced prior to such recess, or written notice of reassembly given as provided in Section 3 of this Act. The business of this convention shall be dispatched with all possible diligence, and no compensation or expense shall be allowed to any member of the convention.

Sec. 9. (a) When the convention shall have been organized, the members, by ballot shall determine whether the Charter Drafting Commission (which hereinafter may be referred to as the "Commission") to be chosen shall consist of three, five, seven, eleven, thirteen or fifteen members. This having been de-

termined the chairman of the convention, from the membership of the convention, shall appoint a nominating committee of five persons, who shall retire and prepare a list, alphabetically arranged, of proposed members of the commission to be chosen, which list shall bear twice as many names of persons as there are to be members of the drafting commission, and regional representation may properly be made a consideration in the nominations. The persons to be named by the nominating committee may or may not be members of the convention, but they shall be persons deemed to have peculiar fitness for the drafting of, or to aid in the drafting of, a charter to control the county government.

(b) When the nominating committee shall have reported, they shall be discharged and the secretary of the convention will furnish to each present member of the convention a true copy of the nominations, together with a ballot slip on which shall be written the number of names to be voted for. From the names nominated by the committee, each voting member of the convention shall select those nominated persons (equal in number to the membership of the drafting commission) preferred by the voting member for service on the commission, indicating the choice by crossing out the names of those nominated persons not preferred by the voter. There may be as many ballots as are required to obtain a majority vote for a number of nominees equal to the membership of the drafting commission. Those persons receiving, in consecutive order from high to low, the highest number of votes shall be elected for service. In case of a tie vote, balloting shall continue until the tie is broken. The results of each ballot shall be tallied and canvassed by the secretary, in the presence of the convention, and the result audibly declared. The drafting commission so chosen shall be given their written credentials, signed by the chairman and secretary of the convention. Written minutes of all proceedings of the convention shall be kept in a journal, audibly read in the presence of the convention, and if found without majority sustained objection, they

shall be approved and signed by the chairman and the secretary of the convention (safely to be preserved for disposition as later in this Act is provided), and thereupon the convention shall be adjourned, subject to recall only as hereinafter is provided for.

Sec. 10. The county charter convention and the charter drafting commission each shall cause to be kept a daily journal correctly reflecting their respective proceedings, and showing the yea and nay votes on all substantive questions, which shall be adequately identified in the journals. These journals must be preserved as permanent records and filed as archives in the records of the administrative body of the county, as hereinafter provided for.

Sec. 11. (a) Within ten days after their election, the drafting commission shall convene at some convenient time and place in the county seat, known in advance to all members of the commission, for organization, which shall be as for organization of a precinct convention. The commission may adopt all necessary reasonable rules to control notice of meetings in its procedure, save that, attendance of a majority of the commission's membership shall be required to constitute a quorum for business, and all questions shall be decided by a majority vote of those members in attendance. So long as there be not vacancies to destroy a lawful quorum of the commission, it lawfully may transact its business and perform its duties; however, in case of a vacancy of a membership either through inability or failure or refusal of a member to act, the commission may certify the vacancy to the commissioners court, whereupon it shall become the duty of the court to fill the vacancy on the commission by a majority supported order entered of record in its minutes.

(b) The drafting commission shall be empowered to employ one clerk, who shall be a competent stenographer and who shall fill the office of secretary of the commission. The commission shall be authorized to make reasonable compensation to its secretary, but not, in any event, to exceed six dollars per day of actual service, and ratably for a fraction of

a day. The commission shall be authorized to incur all other reasonable expense, necessary to facilitate its work, but not in any event to exceed three dollars per day (exclusive of the cost to publish notices, as required by this Act) for the full period from the first meeting day of the commission until it may have been discharged. The expenses so incurred, and the cost to publish the notices by this Act required, shall be paid under orders signed by the chairman and the secretary of the drafting commission, addressed to the commissioners court of the county, and, if the vouchers accompanying such orders be found to support the same, it shall be the duty of the court promptly to make payment thereof by warrants drawn on the county's general fund, whether budgeted therein, or not. No member of the drafting commission shall have compensation for service on the commission.

(c) The drafting commission shall diligently pursue its labors and at a time not less than sixty days nor more than one hundred and eighty days after their organization, they shall have prepared a complete proposed county charter. It shall be the duty of the secretary of the commission, at all reasonable times, to make available to any interested person the minutes of any prior meeting of the commission and any written proposals pending before the commission.

(d) In the preparation of the charter, any complete section thereof may be written in two alternate and elective forms, for submission to a vote of the people. The proposed charter having been completed, there shall be written at the end thereof the words "We hereby recommend the adoption of the foregoing proposed charter, subject to such later revisions as may grow out of our public hearings hereon," to be followed by the date of the certificate and the signatures of at least a majority of the drafting commission. Substantial compliance as to the form of the certificate shall be deemed sufficient.

(e) In case a charter drafting commission, from any cause whatever, fails to complete a proposed charter hereunder, within the time limit

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hereinbefore specified, such commission shall automatically expire, and, upon the written request of any ten signers of the original petition for the adoption of a county charter, it shall be the duty of the clerk of the commissioners court to reconvene the county convention by giving the written notice specified in Section 3 of this Act. The convention being reassembled shall proceed to the selection of a charter drafting commission of the number originally fixed, in the same manner as provided for selection of the membership of the defaulting commission. The substitute commission shall proceed in time and manner as provided for the original commission. Further, in such case, the secretary of the defaulting commission shall safely keep all records of the prior commission and deliver the same to the substitute commission, or its secretary. This procedure to remedy default of a commission may be exercised as many times as may be necessary to procure the submission of a charter to the electorate.

(f) When a proposed charter has been completed and certified, the drafting commission, within ten days shall cause the same to be published in full, in the manner provided in Section 3 of this Act. Said publication further shall provide for five or more public hearings before the commission, the first of which must be not less than fourteen days nor more than twenty days after the first publication of the notice. The time and place of each proposed hearing shall be stated in the notice, and all of the same must be held within thirty days after the date of the first hearing. At such hearings all qualified resident electors of the county may appear and be heard to express their views in an orderly manner, within Robert's Rules of Order, and such other reasonable limitations as the commission may adopt for the timely, efficient and orderly disposition of business. When said public hearings have been concluded, the committee, within ten days, shall make such revision of the proposed charter as by them may be deemed for the betterment thereof.

Sec. 12. Within five days after a proposed county charter finally has

been approved for submission to the qualified electors of the county, it shall be the duty of the charter drafting commission to prepare its report announcing the conclusion of its labors and to make requisition for the holding of a charter election hereunder, which shall be addressed to the commissioners court of the county and filed with said court within said five days. Such report and requisition in form shall be substantially as follows:

To the Honorable Commissioners
Court of _____ County, Texas:

We present herewith two true and certified multiples of a proposed charter to provide for the government of this county, as provided for by Section 3 of Article IX of the Constitution of Texas. We also transmit to you the journals of proceedings of the county convention and of this charter drafting commission. By law, you are required to safely keep said proposed charter and said journals as permanent records, in the archives of the county, where they at all reasonable times shall be open to inspection by the public.

We hereby request that, and under the provisions of an Act of the Legislature of Texas to provide proceedings for adopting home rule charters for counties it now is required that, you by order (to be entered of record in your minutes, to which one copy of the proposed charter shall be attached as an exhibit, and as part thereof) will call an election submitting said proposed charter to a vote of the qualified resident electors of this county for adoption or rejection, as their votes may determine, under the provisions of said Section 3 of Article IX of the Constitution.

This we pray you to do in time, manner, form and after due execution of all appropriate formalities required by the applicable law.

Executed in _____, Texas,
on this the _____ day of _____,
A. D. 19____, by the undersigned,
who constitute a majority, or more,
in number of the Charter Drafting
Commission of this county.

Substantial conformity to the foregoing form shall be deemed sufficient, and the same may be amended, as a matter of right, to cure any substantive defect therein.

Sec. 13. (a) In compliance with the notice and request provided for by Section 12 hereof, an appropriate order shall be entered by the court at a time within ten days after said request is delivered to the court. Upon delivery of such request, the clerk of the court shall endorse on the presented proposed charter and accompanying request the day and hour of the receipt of the same.

(b) By said order the court shall call an election, in which no other question may be submitted to the electors. Said election shall be held at a time not less than thirty days nor more than forty days after the entry of the court's order therefor.

(c) Publication of notice of said election, the holding thereof, the canvass of the returns and the declaration of the results thereof (save in those things peculiarly appropriate to the object of the election, and which peculiar matters are specifically provided for herein), shall be had, done and performed in accordance with the then effective provisions of law regulating the holding of general elections in the State of Texas. Those additional things required and deemed peculiarly appropriate to such election are as follows, viz.:

1. There shall be printed as many copies of the proposed charter as there were voters in the last preceding general election in the county, plus twenty-five per centum thereof, which copies on or before the second day succeeding the first publication of the notice of the election, shall be placed, for distribution, on request, to qualified voters of the county, at each polling place designated in the notice of election.
2. The notice of the election shall contain a full copy of the proposed charter and to include alternate and elective provisions, if any such have been submitted to the electorate, which distinct and alternate provisions shall be printed in the order given them in the proposed charter.
3. Ballots at least equal to one and one-half times the vote cast in the last general election in the county shall be provided for the charter election. Distribution thereof to voting precincts changed or created later than the last general election held in the county shall be according to an estimate of the vote to be cast there-

in at the charter election. To each of those precincts remaining as at the last general election there shall be distribution of ballots approximately equal to one and one-half times the votes cast therein at the last general election. After the day upon which a petition for submitting a proposal to adopt a county home rule charter, or to amend the same, is started in circulation (the commissioners court being advised thereof by writing filed with its clerk), no county voting precinct may be redefined, consolidated or created, until a time subsequent to the election called for by the petition so filed.

4. There shall be printed on said ballots, exclusive of all other things, the following, viz.:

County Home Rule Charter Ballot

For Adoption of Charter

or

Against Adoption of Charter

Next there shall be printed in full thereon elective alternate charter provisions which may have been submitted for determination by the electors; and, in case any such elective charter provisions have been submitted, the same shall be printed in full on the ballot, in the forward progressive order in which they appear in the proposed charter. Indication of the will of the voter shall be by crossing out those propositions or provisions which are not favored. In case a voter crosses out both of two related alternate provisions, or if the voter fails to cross out one of two related alternate charter provisions, the vote to adopt or reject the charter shall nevertheless be counted on that issue.

5. No proposal to consolidate or merge the government of a governmental agency or entity, or any division or function thereof, with the government of the county for administration thereby, shall be voted on at an election held for the original adoption of a charter hereunder. However, it is provided that any such charter may contain provision whereby such consolidations may be submitted to the voters of the county.

Sec. 14. The canvassing of the returns and the declaring of the result of the election shall be by the commissioners court of the county and the charter drafting commission

jointly sitting as a board for such purpose and the result as declared shall be spread on the minutes of the commissioners court. Contest of an election held hereunder may judicially be determined as is, or may be, provided by the laws of Texas relating to contest of general elections, subject to these conditions, viz.:

(a) Written notice of such contest must be filed with the commissioners court and with the clerk of the county charter commission within ten days after the declaration of the result. (b) In case of such notice, within five days the members of the commissioners court and the charter drafting commission shall reassemble as a joint board of review, for the public opening of those ballot boxes as to which the notice of proposed contest has specified exception, examination and recount of the ballots cast in each such voting precinct, revision, if any be required, in the tally sheets from the respective precincts in which error in the tally or returns, or illegal voting, may have been specified in the notice of proposed contest. Matters not specified in such notice of contest may not be inquired into by the board, nor later reviewed by a court. The board may hear evidence, subpoena witnesses and enforce their attendance by attachment to be issued by the clerk of any court of record on request of the board, and administer oaths to witnesses. The hearing shall be concluded as speedily as may be consistent with the object of the hearing. Having concluded the taking of evidence, the board publicly shall revise or reaffirm the tally to conform to their findings of the truth, and enter of record in the minutes of the commissioners court their re-declaration of the result of the election. Thereupon the ballots shall be appropriately resealed in the boxes from which they were taken and preserved as required by the general applicable law. A certified copy of the findings of the joint board of review must be received in evidence in any judicial proceeding contesting an election held hereunder, and shall constitute prima facie proof of the correctness of the declaration of the result of the election, as recorded by the joint board of review. (c) The

time consumed in re-examination of the returns by the joint board of review, as herein provided for, shall not be computed in determining the time within which a petition initiating an election contest in a court of appropriate jurisdiction must be filed: Such time shall be computed from the day on which the joint board of review announce their decision. (d) Upon performance of the duties hereinbefore prescribed for the charter drafting commission, without other or further act, it shall be dissolved, subject only to its rights to designate one of its members, to be a special fiscal agent, with the duty to terminate all pecuniary business matters which have been incident to the performance of the duties of the commission, to procure payment of all outstanding lawful accounts created by the commission, in the manner provided in subdivision (b) of Section 11 of this Act.

Sec. 15. If the election results in a majority of the votes cast in the election being for the charter, the same shall be declared to be adopted and to be in effect after such procedures, at such time and under such conditions, as may be provided for in the adopted charter. If the proposal to adopt a charter be defeated in any such election, no other proposal for the adoption of a charter for the county hereunder may be initiated at a time less than twelve months next succeeding the day of the defeat of the prior proposal. However, in case a charter adopted for a given county does not provide a time limitation (which may not exceed two years) for a time at which such charter may be amended, any home rule charter adopted hereunder may be amended at any time, but the procedure therefor shall be the same as that hereby provided for the proposal and adoption of the original charter.

Sec. 16. In case there be adoption of a county home rule charter providing for an administrative body styled other than as "Commissioners Court" and, or, "County Judge" (as a member of the court), and thereafter there be occasion to proceed for the amendment of such charter, the quoted designations, as they appear in this Act shall be held to conform to the appropriately related

designations as contained in the charter. All home rule charters shall contain provision whereby they may be abrogated, to the end that a given home rule county may return for operation under the General Laws of the State, by submitting that issue to a vote of the qualified electors of the county at an election held for that purpose, in which election a majority of the votes cast therein shall control.

Sec. 17. In case there be not available to a given county funds to liquidate the expenses incurred because of the exercise of powers under this Act, the proponents of a proposed charter may, in writing filed with the court, designate a fiscal agent through whom the proponents may pay all such lawful and proper expenses as may accrue, preserving proper vouchers therefor. Upon presentation of the itemized verified account of such expenses, accompanied by the appropriate vouchers, the commissioners court may approve or disapprove the same, or approve the part thereof found to be proper, and on such approval the court shall pay the same to the designated fiscal agent, or his successors, as soon as money lawfully may be applied thereto and any other law to the contrary shall be without effect: The county shall have no responsibility for the restitution of such money by the fiscal agent to the several contributing proponents, as their several interests may be.

Sec. 18. The qualifications of the judicial officers designated in subdivision "b" of said Section 3 of the Constitution, at any relevant time, shall be as then prescribed by the Constitution and appropriate General Laws of Texas, save in those cases wherein such qualifications may be prescribed in a county charter under the provisions of said subdivision "b."

Sec. 19. Nothing in this Act contained is intended to deny to the counties of Texas any right or power which in the absence of this Act might lawfully be enjoyed and exercised under the provisions of said Section 3 of Article IX of the Constitution: On the contrary, all such rights and powers hereby are expressly recognized.

Sec. 20. Nothing in this Act contained shall be construed to author-

ize county charter provisions which would impair the operation of the General Laws of the State relating to the judicial, tax, fiscal, educational, police, highway and health systems of the State, or any department of the State's superior government and, no charter provision having such vice may have effect as against the State.

Committee Room,

Austin, Texas, April 24, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 122, A bill to be entitled "An Act to regulate the manufacture for sale and sale of non-intoxicating beer; defining non-intoxicating beer; providing when a person is charged with criminal cause in this State with driving an automobile while in a state of intoxication, it shall be no defense therefor when such state of intoxication has been produced by the drinking of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight; etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that committee substitute attached hereof do pass in lieu thereof and be printed and that the original bill be not printed.

HOPKINS, Chairman.

C. S. H. B. No. 122.

Preamble.

Whereas, By virtue of Joint Resolution No. 43 of the Forty-third Legislature, there is to be submitted to the qualified voters of Texas an amendment to the Constitution of Texas for the purpose of determining whether or not the sale of vinous and malt liquors containing not more than three and two tenths (3.2%) per cent of alcohol by weight, shall be permitted; and,

Whereas, In the event of the adoption of said proposed amendment and the sale of vinous and malt liquors containing not more than three and two tenths (3.2%) per cent alcohol by weight is authorized, it is essential that the Legislature

of the State of Texas enact a law whereby the State may obtain revenue arising out of the sale thereof and revenue from the granting of licenses authorizing persons to engage in the business of manufacturing, distributing and retailing the same; and,

Whereas, In the event of the adoption of said proposed amendment, it is essential that the Legislature enact a law whereby the manufacture, distribution and retailing thereof may be regulated; and,

Whereas, In the absence of laws providing for the payment of taxes and license fees and the regulation of the manufacture, distribution and sale thereof, the State would not be empowered to assess or collect any taxes or regulate the manufacture, distribution and sale thereof; and,

Whereas, The proposed constitutional amendment will be acted upon by the people of Texas at a time when the Legislature of the State of Texas is not in session and in order to avoid the tremendous expense incident to the convening of a special session of the Legislature and to avoid the necessity of the Governor reconvening a special session of the Legislature, in the event of the adoption of said proposed amendment, and to make sure that the proper statutes will be in force immediately upon the adoption of said proposed amendment to the end that the State will be enabled to collect license fees and taxes and to properly regulate the manufacture, distribution and sale of such beverages, it is declared to be the intent of the Legislature that the hereinafter bill be in full force and effect upon the adoption of said proposed amendment and effective only in such event.

A BILL

To Be Entitled

An Act regulating the sale, distribution, disposition, storage and transportation of beer, prescribing definitions, and providing the means, manner and method thereof; providing for the licensing and regulating of certain persons selling, transporting, disposing of, storing and distributing same; providing for the assessment, collection, payment, evidencing, appor-

tionment and appropriation of taxes and fees, and the time, amount, method, and manner thereof; providing territories where beer may or may not be sold, for elections to determine the same, and the method and manner thereof; providing generally for the issuance and revocations of licenses; prescribing powers, rights, privileges and duties of certain officers, municipalities and political subdivisions; prescribing offenses, punishment and penalties; providing limitations and exceptions of Article 5098, Civil Statutes, and Article 680 of the Penal Code; providing the effective date of certain provisions of this Act; making an appropriation, and regulating and relating generally to the subject matter and persons handling the same, and declaring an emergency.

Now, therefore, be it enacted by the Legislature of the State of Texas:

Section 1. (a) The manufacture, sale and distribution of vinous or malt beverage containing one-half ($1/2$) of one per cent (1%) or more of alcohol by volume and not more than three and two-tenths (3.2%) per centum of alcohol by weight is hereby authorized within the State of Texas, subject to the terms and conditions herein imposed.

(b) Upon and after the effective date of this Act (as provided in subsections (c) and (d) of Section 28 of this Act) in all counties in the State of Texas and in all political subdivisions thereof wherein the sale of intoxicating liquors have been prohibited by local option elections held under the laws of the State of Texas and in force at the time of taking effect of Section 20, Article 16 of the Constitution of Texas, it shall continue to be unlawful to manufacture, sell, barter or exchange in any such county or in any such political subdivision of said county any vinous or malt liquors containing in excess of one (1%) per cent alcoholic content by volume, unless and until a majority of the qualified voters in said county or political subdivision thereof voting at an election held for such purpose shall determine it to be lawful to manufacture, sell, barter or exchange in such county or in such political subdivision

of said county any vinous and malt liquors containing not more than three and two-tenths (3.2%) per centum alcoholic content by weight.

(c) Provided further that in all counties in the State of Texas and in all political subdivisions thereof wherein the sale of intoxicating liquors had not been prohibited by local option election held under the laws of Texas and in force at the time of the taking effect of Section 20, Article 16 of the Constitution of Texas, it shall be lawful to manufacture, sell, barter or exchange in any such county or in any such political subdivision thereof vinous or malt liquors containing not more than three and two-tenths (3.2%) per centum alcoholic content by weight upon complying with the terms and conditions of this Act unless and until otherwise determined by a majority of the qualified voters voting in an election held in such county or held in such political subdivision thereof at an election held for that purpose.

(d) The word "beer" as hereinafter used in this Act and for the purposes of this Act shall mean beer containing one-half ($\frac{1}{2}$) of one per cent (1%) or more of alcohol by volume and not more than three and two-tenths (3.2%) per centum of alcohol by weight.

Sec. 2. (a) Beer can be manufactured, sold and distributed in barrels, kegs, bottles and other containers.

(b) As a standard of measure the word "barrel" shall mean a container containing thirty-one (31) standard gallons.

Sec. 3. (a) A "manufacturer" is hereby defined to be any person licensed to manufacture or brew beer and to distribute and to sell same to others in the original package.

(b) A "general distributor" is hereby defined to be any person licensed to distribute or to sell beer to local distributors, retail dealers and/or others in the original package.

(c) A "local distributor" is hereby defined to be any person licensed to sell and distribute beer to retail dealers and ultimate consumers in the county of his residence in unbroken packages not to be consumed on the premises where sold.

(d) A "retail dealer" is hereby defined to be any person licensed to sell beer in bottles and from kegs, barrels or other containers to the ultimate consumer.

(e) A "general distributor" shall procure the primary license in the county of his domicile or residence, and if he desires to establish any place of business in any other county, he shall present his license secured from the county of his residence to the tax collector of such county together with a license fee of fifty (\$50.00) dollars, and it shall be the duty forthwith of such tax collector to issue a license for such general distributor in such county.

(f) A distributor, local or general, may maintain necessary warehouses, for storage purposes only, from which delivery may be made without such warehouses being licensed.

(g) "Person" shall include any corporation, partnership, association and person or group of persons.

Sec. 4. It shall be unlawful for any person to manufacture or brew for the purpose of sale or to sell or distribute any beer without first having applied for and secured a license as required by this Act.

Sec. 5. Before any license required by this Act shall be issued, the license fee required thereof shall be paid to the county tax collector of the county where such license is issued for the use and benefit of the General Fund of the State of Texas. Annual fees required for license authorized by this Act shall be as follows:

(a) For a license authorizing the manufacture and sale by a manufacturer, five hundred (\$500.00) dollars.

(b) For a general distributor, two hundred (\$200.00) dollars.

(c) For a local distributor, fifty (\$50.00) dollars.

(d) For a license authorizing the sale of beer by retail dealer for consumption on or off the premises where sold, one hundred (\$100.00) dollars.

(e) For license authorizing the sale of beer by retail dealer in the original container direct to the consumer, but not for resale, and not to be consumed on the premises where sold, fifty (\$50.00) dollars.

(f) All licenses issued under the

terms of this Act shall terminate at midnight on the thirty-first day of December of each year and no license shall be issued for a longer term than one year. On or before the first day of January, 1934, and annually thereafter each and every person owning a license issued under the terms of this Act may by written application filed with the tax collector of the county of his residence, not more than thirty (30) days prior to the first day of January, renew such license so held by him. Such application shall be in writing, signed by the applicant and contain full and complete information as to the business to be conducted and all other information as set out and required in the original application upon which such original license was issued, accompanied by a fee of two (\$2.00) dollars, which said sum of two (\$2.00) dollars shall be in addition to the amounts in this Act required to be paid for annual licenses, as a renewal fee charge. Such sums so paid as renewal fee charges shall be retained by the respective county tax collectors as fees of office and be so accounted for by them respectively. Upon the presentation of such application for renewal of license, together with the sums required by this Act for an annual license, plus the said renewal fee of two (\$2.00) dollars, it shall be the duty of the county tax collector to forthwith issue such renewal license upon the form to be prescribed by the Comptroller; provided, however, that no applicant for a license under the terms of this Act shall be required to pay at any one time more than the annual fees required for licenses hereunder; but such applicant shall always be required to pay such fees in advance and if such license so sought is for a portion of a year only, then the fee required to be paid for the issuance of such license shall cover the period of time from the date of such license to midnight of the thirty-first day of December following, and only such proportionate part of such annual license fee as required under the terms of this Act as the period of time between the date of such license and the thirty-first day of December following bears to the calendar year shall

be required to be paid by such applicant.

(g) No manufacturer, general distributor, local distributor or retail dealer shall carry on such business at more than one place under the same license, but a separate license must be obtained for each place of business, nor shall any such license be voluntarily assigned more than once, but before assignee of such license can engage in business thereunder he or they shall comply with the provisions of this Act as required by original licensee and provided further that the sale of such license, whether in the name of the original licensee or assignee, may be made under execution or mortgage and the purchaser of such license in such sale shall have the right to surrender such license to the State or county which issued the tax receipt which is the basis thereof and shall receive therefor the pro rata unearned portion of such license, provided that should said original licensee or his assignee desire to change the place designated in said license he may do so by applying to the county judge as in the case of the original application for license as provided in this Act.

(h) The commissioners court of each county in this State shall have the power to levy and collect from every person that may be licensed hereunder in said county a license fee equal to one-half ($1/2$) of the State fee; and where any such license fee is assessed in any incorporated city or town, it shall have the power to levy and collect a license fee not to exceed one-half ($1/2$) of the State fee, but no other fee or tax shall be levied by either.

Sec. 6. (a) There is hereby levied and assessed a tax at the rate of one dollar and fifty cents (\$1.50) per barrel on all beer sold, stored or distributed in this State or imported into this State. On imported beer the duty of paying said tax and affixing and cancelling the tax stamp as required under this Act shall rest primarily on the importer, and it is hereby declared to be unlawful to import beer into this State unless said tax has first been paid and the tax stamp evidencing such payment has been first affixed and cancelled as required by this Act.

It is the intention of this section to impose upon all persons importing beer into this State the duty of paying said tax and affixing said stamp as required by this Act before said beer is imported into the State. Provided, however, if it should be determined that this subsection imposes an undue burden on interstate commerce and for that reason is invalid, then, it is hereby declared to be the legislative intent, nevertheless, to levy and collect the tax at the rate herein prescribed upon all beer sold, stored or distributed in this State, or imported into this State, and the duty of paying this tax shall rest upon the first person selling, storing or distributing said beer in this State; providing further, however, that the tax herein prescribed shall be paid but one time.

No manufacturer, however, shall be required to affix any stamps on any container of beer to be transported out of this State while same is stored in any brewery where same is brewed.

It shall be unlawful to transport to destinations in this State any beer upon which said tax has not been paid.

(b) Said tax shall be paid and evidenced by placing stamps as hereafter provided in the denomination required on each original barrel, keg, box, carton or other container in which beer in bulk or in bottles is packed; provided, however, that such container shall not contain more than the content of one (1) barrel of beer; and provided further that at the time such stamp is affixed the person affixing the same shall by indelible ink or stamp cancel said revenue stamp by placing the date and his or its full name or initials on said revenue stamp.

(c) Provided further that if at the time said beer is received in this State, said stamps, as required by this Act, have already been affixed and/or dated and initialed, the person receiving the same shall be relieved therefrom, but he shall not be relieved from dating or initialing the same if no initial or date appears on said stamp upon receipt of said beer.

(d) Said stamp shall be placed on each barrel, keg, carton, box or other container upon which the

stamp is required to be affixed in such way that such container cannot be conveniently and practically opened without mutilating or defacing said stamp. Every person opening any such container upon which a stamp has been placed shall at the time mutilate or otherwise deface such stamp so that the same cannot be used again.

(e) No bottled beer shall be stored in this State unless the same be in a container, unless the same is exposed for sale or is being cooled for sale, except when the same is legally in the possession of the ultimate consumer; nor shall any beer be stored or sold in this State except to the ultimate consumer, unless the same is packaged or contained in a container properly stamped.

(f) If any person has paid the tax on any containers of beer by affixing stamps thereon, and thereafter said beer is shipped out of Texas for consumption, a claim for refund may be made on paying a fee of five dollars (\$5.00) to the Comptroller of Public Accounts at the time and in the manner prescribed by such officer. So much of said fund as may be necessary, not to exceed two per centum (2%) thereof is hereby appropriated for such purpose. Said officer may promulgate rules and regulations generally for the enforcement of this Act.

Sec. 7. It is the purpose and intent of this Act to require the tax to be paid and the stamp evidencing the same to be affixed on the first sale, distribution, storage or transportation and at the source, to the end that it will preclude any person evading the payment of this tax, and so as to relieve as nearly as possible the consumer and retail dealer from having to affix said stamps.

Sec. 8. (a) It shall be the duty of the State Treasurer to have engraved or printed the stamps necessary to comply with this Act and to sell same to all persons upon demand and payment therefor, and one-half ($\frac{1}{2}$) of the proceeds of such sale shall be placed to the credit of the State Available School Fund and one-half ($\frac{1}{2}$) to the General Fund, and the State Treasurer shall be responsible for the custody and sale of such stamps and for the pro-

ceeds of such sales under his official bond. Such stamps shall be of such design and denomination as the State Treasurer shall from time to time prescribe and shall state the amount of tax, the payment of which is evidenced thereby, and shall contain the words "Texas State Tax Paid."

(b) The sum of fifty thousand (\$50,000) dollars, or so much thereof as may be necessary, is hereby appropriated out of the General Fund with which to pay the costs of providing such stamps. The sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary, is hereby appropriated out of the General Fund for the purposes of printing licenses, employment of inspectors and other necessary expenses incurred by the Comptroller for the ensuing biennium beginning September 1, 1933, said two amounts to be returned to the General Fund from the first revenue realized herefrom and provided further that no inspector shall be paid more than inspectors and investigators are now authorized to be paid by the Comptroller.

Sec. 9. No manufacturer or distributor shall own any interest in the business of any retail dealer in beer either directly or indirectly through any officer, agent or employee or own any interest of any kind in the premises in which any such retail dealer conducts his or its business.

Sec. 10. (a) Any person desiring a license as manufacturer, distributor or retail dealer may in vacation or in term time file a petition with the county judge of the county in which the applicant desires to engage in such business, which petition shall state as follows:

If a manufacturer:

(1) That he is a law abiding, taxpaying citizen of this State, over twenty-one (21) years of age; that he has not been convicted of a felony within two years immediately preceding the filing of said petition, and has been a resident of the county wherein such license is sought for more than two years next preceding the filing of said petition.

(2) If a co-partnership, that all of the individuals have the same

qualifications as provided in paragraph (1) above.

(3) If a corporation, that applicant is organized and chartered under and has complied with all corporation laws of this State applicable to such corporation; the principal place of business in such county where such license is sought, and the president or manager shall make an affidavit that he is a law abiding, taxpaying citizen of this State, over twenty-one (21) years of age, and that he has not been convicted of a felony within two years immediately preceding the filing of said petition.

If a distributor:

(1) Such applicant shall give the same information required of a manufacturer, including the place or places where such business is to be transacted.

If a retail dealer:

(1) The same information required of a manufacturer.

(2) Whether he desires to sell beer for consumption on or off the premises.

If an individual:

(1) That the applicant shall make an affidavit duly signed and sworn to before any person authorized to administer oaths under the laws of this State, showing that he has not, since the effective date of this Act, naming the date in the affidavit, paid, contributed or furnished any money or thing of value to any candidate for any public office in this State.

If the application is in behalf of a corporation, the affidavit shall be by the president, vice-president, secretary or treasurer of such corporation and shall contain a statement that the corporation has not paid, contributed or furnished any money or thing of value to any candidate for any public office in this State since the effective date of this Act, naming the date in the affidavit. Any person who makes a false affidavit in reference to the matters and things required by this section, shall be guilty of a felony, and upon conviction shall be punished as now provided by law for having committed the offense of false swearing.

(b) Such manufacturer, distributor, or retail dealer desiring to be licensed shall file said petition with the county judge who shall set same

for a hearing at a date not less than five nor more than ten days from the filing of same, and if upon hearing, he finds the facts stated in such petition are true, he shall authorize a license to be granted as prayed for, provided, however, that upon the filing of such petition, the clerk shall first give notice thereof by posting at the courthouse door a written notice of the filing of said petition and a copy of the substance thereof, and such notice shall state when the petition shall be heard. Said petition may be inspected by any person. Any citizen shall be permitted to contest the facts stated in such petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such suit, should the same be decided in favor of the applicant; provided, however, no county or district attorney shall be required to give bond for such costs but the county or State as the case may be shall be liable therefor.

(c) Upon the court's authorizing a license to be issued, the judge shall so certify and deliver a copy of such certification to the applicant, who shall thereupon present the same to the county tax collector and pay the fee required, whereupon it shall be the duty of the tax collector to issue such license on a form prescribed by the Comptroller, showing the amount paid, date, classification and such other information that may be required by the Comptroller, including the correct address of the place of business. A copy of such license shall be sent by the county tax collector forthwith to the office of the Comptroller and a record thereof kept in said office.

(d) In the event the county judge denies the application for a license, he shall enter his judgment accordingly and the applicant may within thirty days (30) thereafter appeal to the district court of the county where said application is made, and such district court may hear and determine such appeal in term time or vacation by trial de novo. If the applicant shall prevail by final judgment, a certified copy thereof shall be presented to the tax collector, who shall thereupon accept the fees required and license shall be issued as provided herein.

(e) As to applications, this provision of this Act shall become ef-

fective on September 1, 1933. Any time after September 1, 1933, said petition or application can be filed and acted on as provided in this Section, but no license shall be finally issued by the tax collector until on or after September 15, 1933.

(f) Any manufacturer, distributor or person shipping or consigning beer into this State shall file with the Secretary of State a certificate certifying the name of his agent upon whom service may be had, his or its street address and business, and if such be not done within fifteen (15) days from the effective date hereof then service may be had on the Secretary of State in any cause of action arising out of the violation of this Act, and it shall be the duty of the Secretary of State to send any such citation served on him to such person who may be in a foreign state, registered, return receipt requested, and such receipt will be prima facie evidence of service on such person.

Sec. 11. (a) Upon payment of the fee to the tax collector and the proper evidence from the county judge that such applicant should be licensed, such judge shall issue to the applicant the proper license which shall be by him signed, be under the seal of his office, be dated, state on its face for what it is issued, date when it will expire, by whom and where such business is to be conducted and shall describe the place where same is to be kept and whether licensee is authorized to act as manufacturer, general distributor, local distributor, retail dealer of beer as set out in the application.

(b) In the event of the death of any licensee or the dissolution of any corporation or association of persons, leaving unearned portion of any license issued, the legal representative of such deceased person or surviving partner or director of any such corporation may present the license of such person to the State and county and receive payment of the unearned portion of license fee collected, the State's portion to be paid out of the foregoing appropriation to the Comptroller.

(c) The tax collector shall make statements to the Comptroller of the amounts collected by him at the times and in the manner as required by the Comptroller.

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Sec. 12. (a) If any person manufactures or sells beer in this State as a manufacturer, distributor or retail dealer without then and there being licensed as a manufacturer, distributor or retail dealer respectively, or,

(b) If any person as agent or representative of any manufacturer, distributor or retail dealer shall manufacture or sell beer for any manufacturer, distributor or retail dealer without such manufacturer, distributor or retail dealer being duly licensed as required by this Act, or,

(c) If any person shall sell, transport, store or otherwise handle in intra-State commerce, or conspire to sell, transport, store or otherwise handle in intra-State commerce any beer without the stamp required in Section 6 of this Act being placed on the container as required in such section, or,

(d) If any person shall open any such container having a stamp without then and there mutilating or otherwise defacing such stamp so that it cannot be again used, or,

(e) If any person shall attach to any container of beer any stamp that has been theretofore attached to a different container of beer, or,

(f) Shall refuse to allow on demand the Comptroller or any representative of said Comptroller to make a full inspection of any place where beer is being stored, transported, manufactured or otherwise handled, or,

(g) If any person shall knowingly or wilfully sell any beer to any person under the age of eighteen (18) years, or,

(h) If any person fails to display any license required by the provisions of this Act in some conspicuous place in the house where such business is conducted, or,

(i) If any person shall sell or offer for sale in this State, whether as person or agent, any beer unless the same be in or from the original container bearing the original label with the full name of the brewer or manufacturer of such beer both upon the label or bottle and/or upon the cap or cork of such bottle or upon the keg, or,

(j) If any person shall violate any provision of this Act whether specifically enumerated above or not,

(k) He shall be guilty of a mis-

demeanor, and upon conviction shall be punished by a fine in the sum not less than twenty-five (\$25.00) dollars and not more than five hundred (\$500.00) dollars, or by imprisonment in the county jail not more than one year or by both such fine and imprisonment except when some other penalty is specifically provided by this Act, in which event the penalty specifically provided shall apply to the specific act or omission.

Sec. 13. (a) Each manufacturer and distributor shall be required to keep records of the amount of beer manufactured and/or bought or received by them and the amount sold, the amount of stamps purchased by them and the amount of stamps used by them and such other records as may be required to be kept by the Comptroller, which records at all times shall be open for the inspection by him or his duly authorized representative at reasonable office hours.

(b) If any person shall commit any offense prescribed by Section 13 or violate any other provision of this Act, he shall also forfeit to the State a penalty not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars, to be recovered by the State in a suit filed in Travis County or in any county in which such violation may have occurred, which money shall be paid into the State Available School Fund, and each day of such violation shall constitute separate and distinct violations.

(c) Each sale to any person under eighteen (18) years of age under the provisions of this Act shall constitute a separate offense.

(d) It shall be unlawful for any person in all counties or subdivisions thereof wherein the sale of beer as defined by this Act is authorized to be sold, to sell beer on the day of any general primary election or general election held in this State, between the hours of seven o'clock a. m., and eight o'clock p. m. on the day and

(e) It shall be unlawful for any person engaged in or having any interest in any business which manufactures, sells or distributes beer, as defined in this Act, to contribute any money or any other thing of value toward the campaign expenses

of any candidate for any office in this State.

(f) No person who may engage in the sale of beer, as a principal business and which is to be consumed in the premises, under the provisions of this Act shall offer for sale or sell such beer between the hours of twelve o'clock midnight and seven o'clock a. m. on each day as herein provided and from and after twelve o'clock midnight Saturday until seven o'clock a. m. Monday of the following week.

(g) The commissioners court of any county in the territory thereof outside of incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of beer by any dealer whose principal business is the sale of beer where the place of business of any such dealer is within three hundred (300) feet of any church, school or other educational institution, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

(h) The county judge of any county after ten days notice and hearing may revoke the license of any licensee of such county:

1. Where disorderly or immoral practices are permitted on the premises, or spirituous, vinous or malt liquors illegally sold on the premises.

2. Where the word "saloon" is printed, painted or placed upon the door, window or in any other public place on or about the premises or when the word "saloon" is used in any advertisement by the licensee.

Sec. 14. Any person, other than the State Treasurer or his duly authorized agent who shall print or engrave or directly aid in or cause the printing or engraving of any stamp or stamps evidencing or purporting to evidence the payment of any tax levied by this Act, or who shall use or consent to the use of any counterfeit or unauthorized stamps in connection with the sale or offering for sale of any beer, or shall place or cause to be placed on any container containing or to contain such beer any such unauthorized or

counterfeit stamps, or if any person shall knowingly possess any counterfeit stamps or shall counterfeit any license to be used in lieu of the stamps or license as required by this Act, he shall be guilty of a felony and upon conviction be punished by imprisonment in the penitentiary for not less than two years nor more than five years.

Sec. 15. Any person, whether as principal or agent of any firm, corporation or association of persons engaged in the business of manufacturing and selling or in the business of distributing and selling or in the retail business of selling beer under license which does not permit such beer to be opened and consumed on the premises where sold, who shall permit any such beer so manufactured and sold or distributed and sold to be so opened and consumed on the premises where sold, shall be guilty of a felony and upon conviction, be punished by imprisonment in the penitentiary for not less than two years nor more than five years.

Sec. 16. In addition to the penalties herein provided the license of any person convicted of violating any of the provisions of this Act shall be subject to forfeiture in a suit filed by the State for such purpose by reason of such conviction; and no license shall be reissued to any person whose license for any of such occupations has been revoked or forfeited within one year next preceding the filing of his application for a new license.

Sec. 17. In case the license of any licensee hereunder is forfeited under the provisions of this Act, nevertheless such licensee shall be authorized to sell or dispose of in bulk any stock of beer he may have on hand at the time such license is forfeited.

Sec. 18. It is hereby declared to be lawful to transport beer, as herein defined, from any place in this State, where the sale, manufacture and distribution thereof is authorized by law, to any other place within this State where the same may be lawfully manufactured, sold or distributed; and from the State boundary to any such place, even though in the course of such transportation the route over which the same is being transported may traverse local

option territory in which the manufacture, sale and distribution of said beer is prohibited. Provided, however, that any such shipments must be accompanied by a written statement furnished and signed by the shipper showing the name and address of the consignor and the consignee, the origin and destination of such shipment and it shall be the duty of the person in charge of such cargo while it is being so transported to exhibit such written statement to any peace officer making demand therefor, and said statement shall be accepted by such officer as prima facie evidence of the lawful right to transport such beer.

Sec. 19. The commissioners court of each county in the State, whenever they deem it expedient, may order an election to be held by the qualified voters in said county or of any justice precinct, incorporated city or town, to determine whether or not the sale of beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight shall be prohibited or permitted in such county, justice precinct, incorporated town or city, provided it shall be the duty of said commissioners court to order the election as aforesaid whenever petitioned to do so by as many as ten per cent of the qualified voters of said county or of said political subdivision, taking the vote for governor at the last preceding general election as the basis for determining the qualified voters in any county or political subdivision. After the first local option election held as provided in this Act in any county, justice precinct, incorporated town or city, no subsequent election in the same political subdivision shall be held for the purpose of determining whether or not beer as defined in this Act shall be permitted or prohibited earlier than six months from the date of the preceding local option election in said county or said political subdivision of said county.

Sec. 20. When the commissioners court, of their own motion or upon the petition provided for, shall order an election as herein provided for, it shall be the duty of said court to order such election to be held at the voting places within such subdivision or county upon a day not

less than ten nor more than twenty days from the date of said order, and the order thus made shall express the object of such election and shall be held to be prima facie evidence that all the provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been fully complied with, provided that said court shall appoint such officers to hold such election as now required to hold general elections.

Sec. 21. The clerk of said court shall post or cause to be posted at least one copy of said order in each election precinct in such political subdivision or county affected, for at least six days prior to the day of election, which election shall be held and the returns thereof made in conformity with the provisions of the General Laws of the State, and by the election officers appointed and qualified under such laws.

Sec. 22. (a) At said election the vote shall be by official ballot which shall have printed or written at the top thereof in plain letters the words "Official Ballot." Said ballot shall have also written or printed thereon the words "For the sale of beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight," and the words, "Against the sale of beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight," and the clerk of the county court shall furnish the presiding officer of each such voting box within such subdivision or county with a number of such voting boxes and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter and each person offering to vote at such election shall, at the time he offers, to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such presiding officer when requested to do so by such voter.

(b) Those who favor the sale of beer containing not more than three and two-tenths per centum (3.2%) alcohol by weight shall erase the

words, "Against the sale of beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight," by making a pencil mark through same, and those who oppose it shall erase the words, "For the sale of beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight," by making a pencil mark through same. No ballot shall be received or counted by the officers of such election that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act.

Sec. 23. The officers holding such election shall, in all respects not herein specified, conform to the general election laws in force regulating elections; and after the polls are closed proceed to count the votes and within three days thereafter make due report of said election to the aforesaid court. The provisions of the general election laws shall be followed in calling and conducting said election where not inconsistent herewith.

Sec. 24. Said court shall hold a special session on the fifth day after the holding of said election, or as soon thereafter as practicable for the purpose of canvassing the votes and certifying the results, and if a majority of the votes are "Against the sale of beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight," said court shall immediately make an order declaring the results of said vote, and absolutely prohibiting the sale of beer containing not more than three and two-tenths (3.2%) per centum alcohol by weight within the said political subdivision after thirty days from the date of declaring the result thereof, and thereafter until such time as the qualified voters therein may thereafter at a legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held to be prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes, and declaring the results thereof.

Sec. 25. The order of said court declaring the result and prohibiting

the sale of beer containing not more than three and two-tenths per centum (3.2%) of alcohol by weight shall be published for four successive weeks in some newspaper published in the county wherein such election has been held. If there be no newspaper published in the county, then the county judge shall cause publication to be made by posting copies of said order at three public places within the county for the aforesaid length of time. The fact that publication has been made, in either mode, shall be entered by the county judge on the minutes of the commissioners court. An entry thus made, or a copy thereof certified under the hand and seal of the clerk of the court shall be sufficient prima facie evidence of such fact of publication.

Sec. 26. If a majority voting at such election vote "For the sale of beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight," the court shall make an order declaring the results and have the same entered of record in the office of the clerk of said court, whereupon it shall be lawful in such political subdivision to manufacture, sell and distribute beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight, and thereafter until such time as the qualified voters therein may thereafter at a legal election held for that purpose by a majority vote decide otherwise, and the order thus made shall be held to be prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof.

Sec. 27. In all cases where any person pursuing the occupation of selling beer containing not more than three and two-tenths (3.2%) per centum of alcohol by weight under licenses issued in accordance with the laws of this State has been or shall hereafter be prevented from pursuing such occupation for the full time to which he would be otherwise entitled by reason of the adoption of local option in any county or subdivision thereof the proportionate amount of license fees paid by him for the unexpired term shall be refunded to him.

Sec. 28. (a) None of the provisions of Title 80 of the Revised Civil statutes, 1925, or of Title 2, Chapter 7 of the Penal Code, shall have application to the manufacture, sale, possession, distribution, advertisement or transportation of vinous or malt beverages as herein defined in those counties or political subdivisions thereof wherein the manufacture, sale, possession, distribution, advertisement and transportation of such beverages are legalized under the terms of this Act.

(b) Nothing contained in this Act shall be construed as authorizing or permitting the sale, manufacture, transportation or possession for sale of spiritous liquors or medicated bitters capable of producing intoxication in any county in this State regardless of whether or not the sale, manufacture, transportation or possession for sale of beer as defined in this Act has been permitted and nothing herein contained shall be construed as preventing the enforcement of all laws now in force, or which may hereafter be in force, regulating or prohibiting the sale of such spiritous liquors or medicated bitters in this State.

(c) This Act shall take effect and become a law on September 15, 1933. If the complete returns of the Texas Election Bureau, however, show that H. J. R. No. 43 of the Forty-third Legislature has been adopted by the people by a majority of not less than 20,000 votes, then in that event the officers charged with the duty of engraving or having engraved said stamps shall begin immediately to do so and may distribute the same for use when under the laws of this State the same may be required, and the Comptroller shall also begin to discharge those duties incumbent on him on such date.

(d) If, however, H. J. R. No. 43 of the Forty-third Legislature shall not have been adopted as an amendment to the Constitution of the State of Texas, then, and in that event, this Act shall no longer be effective.

(e) If any section, paragraph, sentence or phrase of this Act be invalid, then such invalid portion shall not in any way affect the remainder of this Act, and it is hereby declared as the legislative intent that the remainder of this Act would have been

passed by the Legislature, notwithstanding the invalidity of such section, paragraph, sentence or phrase.

Sec. 29. The fact that the Congress of the United States has heretofore legalized the sale of beer containing three and two-tenths (3.2%) per centum of alcohol by weight; the fact that most States of the Union and several States immediately adjacent to the State of Texas have authorized the sale of beer; the fact that a widespread demand of the people has required the submission by the Legislature of Texas of the question of legalization of 3.2% beer to the people through a Constitutional amendment, and there is now pending and will be enacted by this Legislature H. J. R. No. 43, so submitting the question of legalization of three and two-tenths (3.2%) per cent beer; the fact that if such proposed Constitutional amendment is adopted the sale of and traffic in beer will be entirely unlicensed and unregulated unless proper machinery for the licensing and taxing of such industry is provided by the present session of the Legislature, thus avoiding the necessity and expense of a Special Session of the Legislature; and the fact that there now appears evident a large deficit in the general revenue fund and school funds of the State which may be relieved by the revenues to accrue under the terms of this Act, creates an imperative public necessity that the Constitutional rule requiring bills to be read on three several days be suspended and said rule is so suspended, and this Act shall take effect and be in force from and after the time provided for in Section 28, subsection (c) hereof, and it is so enacted.

SIXTY-THIRD DAY.

Senate Chamber,
Austin, Texas,
April 25, 1933.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Blackert.	Duggan.
Collie.	Fellbaum.
DeBerry.	Greer.